

- ## R7 - Resolutions

**R9 - New Business and Commission Requests**

R9G Discussion And Review Of The Proposed Purchase Of The Property Located At 1833 Bay Road, Miami Beach, Florida.

(Economic Development)

**(Additional Material)**

R9I Discussion Regarding A Resolution Expressing Support Of HB 1223 Presently Pending Before The Florida Legislature, Relating To Condominium Associations.

(Requested by Commissioner Luis R. Garcia, Jr.)

**(Resolution)**

R9J Discussion Regarding Controlling Major Projects.

(Requested by Commissioner Saul Gross)

**(Additional Material)**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING CHAPTER 70, ARTICLE III OF THE MIAMI BEACH CITY CODE, ENTITLED "GRAFFITI" BY PROVIDING FOR REDUCTION IN TIME PERIODS PERMITTED FOR COMPLIANCE WITH ARTICLE, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Commission of the City of Miami Beach find that more stringent measures to attack graffiti are necessary than currently exist in the City Code to serve and protect the best interests of the citizens of Miami Beach and to promote and maintain the aesthetic appearance of the City of Miami Beach which is an internationally renowned tourist destination; and

WHEREAS, the immediate removal of graffiti is the most effective deterrent to its reoccurrence; and

WHEREAS, graffiti depreciates the value of the defaced property as well as the surrounding neighborhood; and

WHEREAS, in order to preserve the integrity of the commercial and residential neighborhoods of the City, including its five historically designated districts, and to protect the health, safety and welfare of the general public, the Mayor and City Commission find it is in the best interest of the citizens of Miami Beach to authorize the prompt removal or abatement of graffiti from public or private permanent structures located within the City of Miami Beach.

NOW THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

**SECTION 1.** That Section 70-126 of the Miami Beach City Code, entitled "Responsibility of Property Owner(s); Graffiti Removal and Notice" be amended to read:

**Sec. 70-126 Responsibility of Property Owner(s); Graffiti Removal and Notice**

(a) Maintenance or allowance of graffiti to exist for more than ~~seven business days~~ forty-eight (48) hours on a commercial property, or ~~10 business~~ seven calendar days on a residential non-commercial property, is prohibited.

(b) Whenever the City becomes aware of the existence of graffiti on any property, a code compliance officer is authorized upon such discovery to give, or cause to be given, notice to take corrective action to the property owner or the property owner's agent or manager.

(1) *Commercial Property.* For commercial property, the property owner or the

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property owner's agent or manager shall take corrective action within ~~seven business days~~ forty-eight (48) hours from the receipt or delivery of the notice referenced within this Section.

- (2) *Non-Commercial property.* For non-commercial property, the property owner, or property owner's agent shall take corrective action within ~~10 business~~ seven calendar days from the receipt or delivery of the notice referenced within this Section.

(c) Such notice shall be given by certified mail, return receipt requested; or by hand delivery by code compliance officer to the owner of record of the property described as recorded in the current county tax rolls. Mailed notice shall be deemed complete and sufficient notice when so deposited in the United States mail with proper postage prepaid.

(d) The City shall waive painting permit requirements for abating graffiti, subject to the use of the same colored exterior paint, provided that the existing paint complies with all City requirements.

(e) Graffiti abatement shall consist of:

- (1) Painting of the entire wall, and/or non-permanent structure defaced by graffiti; or
- (2) Pressure-cleaning or any other method that will successfully remove graffiti from a wall, and/or non-permanent structure, without causing damage.

## **SECTION 2. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

## **SECTION 3. EFFECTIVE DATE.**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

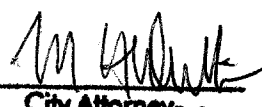
**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

 4-13-04  
City Attorney Date

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY NOTICED PUBLIC HEARING, AND HAVING ALSO CONSIDERED THE FACTS SET FORTH IN THIS RESOLUTION AND EXHIBITS "A" AND "B", ATTACHED HERETO, WAIVING BY 5/7THS VOTE, THE PROHIBITION OF TRAN CONSTRUCTION, INC. FROM CONTINUING TO SERVE AS A VENDOR WITH THE CITY PURSUANT TO MIAMI BEACH CITY CODE SECTION 2-487 (B)(4), FINDING SUCH WAIVER TO BE IN THE BEST ECONOMIC INTEREST OF THE CITY, REGARDING THE FOLLOWING EXISTING CONTRACTS: 1) THE MIAMI BEACH GOLF COURSE CLUBHOUSE, RESTROOM PAVILIONS AND MAINTENANCE YARD BUILDING; 2) THE DESIGN, PERMITTING AND CONSTRUCTION OF FOUR NEW RESTROOM/CONCESSION FACILITIES WITHIN THE BEACHFRONT PARKS LOCATED AT 21ST, 46TH, 53RD, AND 64TH STREETS; AND 3) THE JOB ORDER CONTRACTING (JOC) CONTRACT RELATIVE TO THE FOLLOWING MIAMI BEACH CONVENTION CENTER PROJECTS: A) CHILLER REPLACEMENT; B) REPLACEMENT OF AIR HANDLERS; AND C) REFURBISHMENT OF 12 AIR HANDLING UNITS.

**WHEREAS**, on March 17, 2004, the Mayor and City Commission adopted a resolution that set a public hearing for April 14, 2004, relative to waiving by 5/7ths vote, the prohibition of Tran Construction, Inc. from continuing to serve as a vendor with the City pursuant to Section 2-487(B)(4) of the Miami Beach City Code (the "City Code"); and

**WHEREAS**, Section 2-487(B)(4) of the City Code provides a waiver of the prohibition of an individual or entity from serving as a vendor, should the following condition exist: *"A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city"*; and

**WHEREAS**, the waiver request is pursuant to Section 2-487(A)(3) of the City Code which states that *"a person or entity who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city"*; and

**WHEREAS**, the Administration is recommending that the City Commission waive by 5/7ths vote, the prohibition of Tran Construction, Inc. from continuing to serve as a vendor with the City, pursuant to Miami Beach City Code Section 2-487 (B)(4), based on the adverse economic impact to the City which would occur if the contracts referenced in the title in this Resolution were to be terminated; said adverse impact more specifically set forth in Exhibits "A" and "B", which are attached to this Resolution and incorporated by reference herein; and

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**WHEREAS**, for the reasons set forth in this Resolution and in Exhibits "A" and "B", attached hereto and incorporated herein, it is the Administration's recommendation that it is in the City's best economic interest not to terminate Tran Construction's existing contracts; and

**WHEREAS**, the City will be greatly hindered with any action or interruptions to the progress of Tran Construction's existing contracts.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission, following a duly noticed public hearing and having also considered the facts set forth in this Resolution and Exhibits "A" and "B", attached hereto, hereby waive by 5/7ths vote, the prohibition of Tran Construction, Inc. from continuing to serve as a vendor with the City pursuant to Miami Beach City Code Section 2-487 (b)(4), finding such waiver to be in the best economic interest of the City, regarding the following existing contracts: 1) the Miami Beach Golf Course Clubhouse, Restroom Pavilions and Maintenance Yard Building; 2) the Design, Permitting and Construction of Four New Restroom/Concession Facilities within the Beachfront Parks located at 21st, 46th, 53rd, and 64th Streets; and 3) the Job Order Contracting (JOC) contract relative to the following Miami Beach Convention Center projects: a) Chiller Replacement; b) Replacement of Air Handlers; and c) Refurbishment of 12 Air Handling Units.

**PASSED** and **ADOPTED** this \_\_\_\_ day of April 2004.

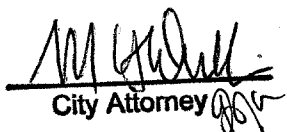
\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

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**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

  
\_\_\_\_\_  
City Attorney

4-13-04  
Date

## EXHIBIT "A"

### I. CONTRACT FOR THE MIAMI BEACH GOLF COURSE CLUBHOUSE, RESTROOM PAVILIONS AND MAINTENANCE YARD BUILDING (the "Clubhouse"):

A. The Parks and Recreation Department estimates the following economic impact on the City should the City Commission not waive the prohibition of Tran Construction from serving as a vendor:

- (1) Set forth in Exhibit "B", which is attached to the Resolution and incorporated by reference therein, is a summary of the tournaments booked at the Miami Beach Golf Club with the understanding that the Clubhouse will be completed and ready for their use. Not having the Clubhouse may jeopardize the City's chances to host these events and seriously damage credibility.
- (2) Presently, with the City not having the use of the Clubhouse, the Parks and Recreation Department advises clients that if a covered and/or air conditioned area is required for a tournament the client needs to rent and pay for the use of a tent and related furnishings and equipment. By illustration, an average sized tent with air conditioning costs approximately \$6,500 to rent for the standard tournament. The City did not advise the groups who booked the events in Exhibit "B" of this condition due to the expectation that the Clubhouse would be completed.
- (3) It is also important to note that as Parks and Recreation prepares its budget for Fiscal Year 2004-2005, it is considering recommending a rate increase based on the Clubhouse being fully operational. The Department estimates that these rate increases will represent additional average revenue of approximately \$15,000 per month. The Department would not recommend a rate increase if the Clubhouse is not completed.
- (4) Because the Clubhouse, golf course equipment maintenance facility and on course restrooms are not completed, the City is paying for the following costs:

\$ 1,965.00 -- Modular Building per Month / \$23,580/yr.  
\$ 4,300.00 -- Tropical Tent (Cart Barn) per Month/ \$51,600.00/yr.  
\$ 200.00 -- Able Sanitation Temporary Rest Rooms (x2) Month / \$2,400.00/yr.  
\$ 55.00 -- Metal Container - Storage (x1) Month / \$660.00/yr.

Combined Monthly Expense  
\$6,520.00

Annual Expense  
\$78,240.00

- (5) Additionally, there are several pieces of golf course maintenance equipment, valued at over \$93,000 that must be left outdoors exposed to salt air and rain, causing damage and an accelerated deterioration of the units because the golf course maintenance building is not completed. These include:

10/each	Golf Carts (Maintenance)
2/each	Tractors
1/each	Sweeper
1/each	Verticutter
1/each	Sand Hauler
1/each	Airfier
2/each	Roller

- B. The City's Capital Improvements Program (CIP) Office estimates that the costs associated with disqualifying Tran Construction and terminating the existing contract with Tran Construction on this project may potentially cost the City \$1.31 million. This estimate is calculated from the following likely possibilities:

- \$500,000 - Anticipated Profits Claim on remaining \$1.6 Million of Work
- \$300,000 - Wrongful Termination Claim
- \$400,000 - 25% Premium to Replacement Contractor on remaining \$1.6 Million of Work
- \$60,000 - Additional Services To REG Architects to produce a Conformed set
- \$50,000 - Additional Services to URS for Extended Program Management

Additionally, based on recent experience, a work stoppage on the project would be anticipated to last a minimum of four (4) to six (6) months. As substantial completion on the project is currently scheduled for June 2004, a disqualification Tran Construction would delay substantial completion of the project until somewhere between October 2004 to January 2005.

## **II. THE DESIGN, PERMITTING AND CONSTRUCTION OF FOUR NEW RESTROOM/CONCESSION FACILITIES WITHIN THE BEACHFRONT PARKS LOCATED AT 21ST, 46TH, 53RD, AND 64TH STREETS ("Beachfront Restroom Project").**

- A. As of March 17, 2004, Tran Construction has not commenced work on this project. However, the City Commission appropriated \$750,000 of the proceeds from the Safe Neighborhood Parks (SNP) Bond Program for the replacement of the restroom/concession facilities. These funds may be lost if the project is not commenced by November 30, 2004.



- B. The project was released as a design/build contract and a probable three (3) to six (6) months of engineering and permitting is required prior to any construction commencement. As time is presently such a critical component, any replacement of the current Design/Build Team would result in significant additional difficulties in meeting the Safe Neighborhood Parks Bond funding timelines for the project. If the City loses the current SNP bond funding, another source would need to be identified to replace it.

**III. THE JOB ORDER CONTRACTING (JOC) CONTRACT RELATIVE TO THE FOLLOWING MIAMI BEACH CONVENTION CENTER PROJECTS: A) CHILLER REPLACEMENT; B) REPLACEMENT OF AIR HANDLERS; AND C) REFURBISHMENT OF 12 AIR HANDLING UNITS.**

- A. SMG, the City's Manager for the Miami Beach Convention Center, estimates that a termination of Tran Construction's contract would create more problems and prevent the Convention Center from achieving the intended end results of these projects which have been closely coordinated by all parties around the very busy Convention Center season (i.e., Boat show, Art Basel, multiple conventions, etc.).
- B. There exist Heating Ventilation and Air Conditioning (HVAC) conditions which, unless these projects conclude within the next 30 days, the Convention Center will be crippled with systems which have been out of commission prior to Tran Construction's start of the work, and subsequent to their commencing their work. If there were an interruption to the progress of work, the City would be faced with additional costs to have temporary HVAC systems brought in to service the systems, which will be down due to Tran Construction's work. Without clearly having a definitive timeframe of when the interruption will be resolved between the City and Tran Construction, the Convention Center could be faced with months and months of additional costs for any temporary systems and or lack of use of the systems in place.
- C. If Tran Construction is disqualified from serving as a vendor, and the project contracts are terminated, Convention Center staff is looking at an extensive cost factor to continue the projects that have been awarded and in progress that could include the following:
- Delay in project completion
  - Cost in re-bid (approximately 30 Days)
  - Cost in re-permitting
  - Cost in project close-out
  - Cost to re-open new project
  - Subcontractor payments
  - Supplier Payment
  - Cost in gathering releases of liens on all parties involved
  - Cost of City staff

- Availability of fund and the capacity on other JOC contractors
- Cost of De-mobilization and Mobilization
- Attorney fees

**EXHIBIT "B"**  
**TOURNAMENTS BOOKED AT THE MIAMI BEACH GOLF CLUB**

September 3, 04 - 144 players – National Lymphoma Foundation	\$7,560.00
September 5, 04 - 50 players – Caldwell Bankers	3,750.00
September 10, 04 - 144 players – Multiple Sclerosis	7,560.00
September 17, 04 - 144 players – Cancer Society	7,560.00
September 26, 04 - 90 players – Tony Roma's	<u>6,750.00</u>

**Revenue Total for September**                      \$33,180.00

October 3, 04 - 100 players – American Teleservices Assn.	\$7,500.00
October 8, 04 - 100 players – Playboy Scramble	7,500.00
October 27, 04 - 60 players – Accentuce	4,500.00
October 30, 04 - 128 players – 1 <sup>st</sup> Home Mortgage	<u>9,600.00</u>

**Revenue Total for October**                      \$29,100.00

November 4, 04 - 90 players – Merit McConnell	\$8,100.00
November 6, 04 - 144 players – Habitat for Humanity	<u>9,072.00</u>

**Revenue Total for November**                      \$17,172.00

December 3, 04 - 144 players – American Cancer Society	\$ 9, 072.00
January 10, 05 - 120 players – Commercial Real Estate	\$18,000.00
January 15, 05 - 144 players – MAFSI	<u>\$ 21,600.00</u>

**Revenue Total for January 2005**                      \$39,600.00

March 11, 05 - 80 players – ITA Group	\$14,000.00
April 15, 05 - 50 players – Acordia Golf Outing	\$ 8,750.00
May 6, 05 - 100 players – Washington Guardsmen	<u>\$ 8,500.00</u>

**GRAND TOTAL                      \$159,374.00**

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RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH PERKINS AND WILL, INC. IN THE NOT TO EXCEED AMOUNT OF \$1,200,788 FOR THE PROVISION OF PLANNING, ARCHITECTURE, LANDSCAPE ARCHITECTURE, AND ENGINEERING SERVICES REQUIRED TO DESIGN AND CONSTRUCT THE MULTI-PURPOSE MUNICIPAL PARKING FACILITY PROJECT AND FURTHER APPROPRIATING FUNDS IN THIS AMOUNT ALONG WITH \$299,813 FOR ASSOCIATED CIP OFFICE PROJECT MANAGEMENT CHARGES, FROM THE PARKING ENTERPRISE FUND.**

**WHEREAS**, on September 10<sup>th</sup>, 2003, the Mayor and City Commission approved Resolution No. 2003-25332, authorizing the execution of a Development Agreement between the City of Miami Beach and the New World Symphony (NWS) for the development of a portion of the Washington Avenue and 17<sup>th</sup> Street surface parking lots for construction of an educational, performance and internet broadcast facility with an exterior screen ("Soundspace"), and an approximately 320-space (+/-) public parking garage facility (the NWS Project); and

**WHEREAS**, in approving the execution of the Agreement, the City Commission also directed that the Administration should proceed with developing a new Multipurpose Municipal Parking Facility (MMPF) on the site of the current City Hall surface lot to provide replacement parking for the NWS Project; and

**WHEREAS**, the MMPF must be completed, or an alternate acceptable replacement parking location must be identified, prior to the NWS's anticipated commencement of the NWS Project construction in early 2008; and

**WHEREAS**, on September 10, 2003, the City Commission authorized the issuance of Request for Qualifications No. 69-02/03 for Architectural, Engineering, Design, and Construction Administration Services needed to Plan, Design, and Construct a Multipurpose Municipal Parking Facility on the Current Site of the City Hall Surface Parking Lot (the RFQ).; and

**WHEREAS**, RFQ responses were received and ranked by an Evaluation Committee appointed by the City Manager; and

**WHEREAS**, the Administration recommended that the City Commission authorize negotiations with the second-ranked firm of Perkins and Will over first-ranked Zyscovich Inc., since both firms are equally qualified but Zyscovich Inc. has done a significant amount of work for the City, while Perkins and Will has not done any work for the City; and

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**WHEREAS**, the City Commission on February 4, 2004 approved Resolution No. 2004-25479, selecting and authorizing the Administration to negotiate an agreement with Perkins and Will, in accordance with the Administration's recommendation; and

**WHEREAS**, City and URS Program Management staff met three times with Perkins and Will to negotiate the MMPF project scope and fee; and

**WHEREAS**, during the meetings it was determined that the exact number of parking spaces and amount of retail/office square footage in the MMPF project will not be finalized until the project planning phase has been completed and Perkins and Will's fee for construction design and administration varies substantially depending on these two variables; and

**WHEREAS**, staff negotiated two fee options: Option One which provides for a total professional services fee of \$1,200,788 based on a project with 480 parking spaces, 20,000 square feet of office/retail, a pedestrian bridge to City Hall, and required site improvements and utility extensions with an approximate construction cost of \$9,085,250; Option Two which provides for a total professional services fee of \$1,368,768 based on a project with 600 parking spaces, 50,000 square feet of office/retail, a pedestrian bridge, and site and utility improvements with an approximate construction cost of \$14,761,250; and

**WHEREAS**, the Administration recommends that the City Commission approve Option One in the amount of \$1,200,788, and appropriate funding for this amount and the associated \$299,813 for CIP Office management costs from the Parking Enterprise Fund.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby approve and authorize the execution of an agreement with Perkins and Will, Inc., in the not to exceed amount of \$1,200,788, for the provision of planning, architecture, landscape architecture, and engineering services required to design and construct the Multi-purpose Municipal Parking Facility project, and further appropriating funds in this amount, along with \$299,813 for associated CIP Office project management charges, from the Parking Enterprise Fund.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2004.

**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

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**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

 4-9-04  
City Attorney Date

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND MEMBERS OF THE CITY COMMISSION ADOPTING THE RECOMMENDATION OF THE CITY MANAGER AND AUTHORIZING THE ADMINISTRATION TO COMMIT THE 5,000 SQUARE FOOT SPACE WITHIN "THE COURTS" PROJECT (F/K/A THE COBB PROJECT) LOCATED AT 131 ALTON ROAD, MIAMI BEACH, FLORIDA, FOR USE AS A LIBRARY.**

**WHEREAS**, Miami Beach Redevelopment Agency Resolution No. 444-2003, passed and adopted on February 26, 2003, authorized the Executive Director to exercise the RDA's option to purchase the 5,000 square foot space (the "Facility") within "The Courts" project (f/k/a The Cobb Project) and to contribute the Facility to the City of Miami Beach for uses including a library and such other public uses as permitted and as mutually agreed to by the parties; and

**WHEREAS**, the existing South Shore Library Branch, located at 225 Washington Avenue, is intended to be relocated to the Facility at 131 Alton Road; and

**WHEREAS**, the developer of The Courts project (Developer) is currently utilizing the Facility as its sales center, while it is preparing to commence the retrofit/build-out of the Facility, which is to be completed by September 2004; and

**WHEREAS**, the Developer is seeking direction as to the final space configuration of the Facility, and concurrently, the Miami-Dade Public Library System has requested the City's commitment for an allocation of the entire Facility as a Library so that proper budgeting for the necessary books, materials, and computers may be secured; and

**WHEREAS**, during the February 26, 2003 Commission meeting, there was discussion concerning the possibility of utilizing the Facility as a Library, and for any other public purpose which would be mutually agreed to between the City/RDA and Developer; and

**WHEREAS**, during the February 26, 2003 City Commission meeting, the Administration stated it would be prepared to make a recommendation as the April 2004 date approaches and when the retrofit of the space needs to begin; and

**WHEREAS**, on March 13, 2003, a community meeting was held, during which the members of the public present indicated a preference for the entire Facility to be utilized as a Library; and

**WHEREAS**, on March 25, 2003, a Letter Agreement Modification to Paragraph 4 of the Fourth Extension and Clarification Agreement between the Miami Beach Redevelopment Agency, the City of Miami Beach, and the Courts at South Beach Limited,

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a Florida limited partnership f/k/a Cobb Partners South Beach, Ltd. (Developer), dated July 26, 2000, was executed, which identified the following as "other public uses as permitted and as mutually agreed to by the parties":

- Public purposes outlined in previous agreements such as a police sub-station or administrative fire or police office facilities;
- Office space for cultural organizations and/or organizations which serve as arts incubators;
- A library facility; and

**WHEREAS**, while the City Commission has requested the Administration to consider additional public purpose uses for the Facility, the Administration believes it is not in the City's best interest to retrofit the Facility for more than one use or for shared uses, for the following reasons:

- Members of the community have expressed they prefer the Facility be purchased for the exclusive use of relocating and expanding the South Shore Library Branch. They do not support the sharing of the Facility between the Library System and other public purposes;
- The Miami-Dade County Library System has prepared a schematic plan for the library relocation and expansion utilizing the Facility which envisions more space for a computer facility, an expanded book collection, and a children's area for story-reading programs;
- The Facility is currently built for a single user with one set of restrooms and only minimal means of egress. Therefore, the permitting requirements of retrofitting the Facility to allow for a second occupant may result in additional restroom requirements and a requirement for an additional means of ingress and egress, which will substantially affect the retrofit cost and timeframe for construction.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby adopt the recommendation of the City Manager and hereby authorize the Administration to commit the 5,000 square foot space within "The Courts" project (F/K/A The Cobb Project), located at 131 Alton Road, Miami Beach, Florida, for use as a Library.

**PASSED and ADOPTED** this \_\_\_\_ day of April 2004.

\_\_\_\_\_  
**MAYOR**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**APPROVED AS TO  
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& FOR EXECUTION**

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\_\_\_\_\_  
City Attorney

4-5-03  
\_\_\_\_\_  
Date





THE CITY OF MIAMI BEACH  
PROPERTY MANAGEMENT DIVISION  
1245 MICHIGAN AVENUE  
MIAMI BEACH, FLORIDA 33139  
(305) 673-7630 fax (305) 673-7963



To: Christina Cuervo  
Assistant City Manager  
*[Signature]*  
From: Brad A. Judd RPA, FMA, CGC  
Director, Property Management

April 12, 2004

Subject: Feasibility Study of the 1833 Bay Road Building

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As requested, Property Management conducted a study of the existing conditions of the 1833 Bay Road building to provide information on the conditions of the building for the potential purchase of the property by the City. In addition to our own investigations, we have received comments from Inspectors from the Building Department and Fire Department on their understandings on the codes and how they apply to the facility. The following is the findings:

The building was originally constructed in 1953 and is a CBS two-story structure that contains approximately 6,000 square foot of useable space. The second floor is an open space floor area with some offices built on the south and west perimeters of the space. The first floor is constructed using a short span concrete joist system connected to a bearing CBS wall that runs east-west in the center of the building that supports the load of the second floor. Although space configuration is unlimited on the second floor, the first floor is limited by the presence of the load bearing wall center wall of the building that cannot be removed.

Electrical Systems

The electrical service for the Building is a 120/208 Volt-150 Amp single phase service. This service provides power to sub-panels on both floors of the building. All electrical devices, receptacles, switches, disconnects, and lighting were tested for proper operation and grounding and were found to be in good working condition. It is estimated that the existing electrical service will only require minimal maintenance over the next ten years unless additional needs or additional service is required by the use of the facility.

Plumbing Systems

The plumbing service in the Building consists of two restrooms on each floor and one kitchen areas on each floor of the Building. The fixtures of the restrooms and kitchen areas were found in good operational condition and should provide reliable service for at least the next 6 years. There were some needs that should be addressed. Although most of the building has copper piping, there are some small areas that have galvanized pipes that should be replaced. Additionally, the building does

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not have backflow protection that must be added to meet current Code requirements. The estimated cost of replacing the galvanized pipes and providing a backflow prevention device is \$6,500.00.

#### HVAC System

The HVAC system in the building is inadequate. It consists of a small split unit (36,000 btu) that covers a small area on the second floor only. The remainder of the Building is controlled by 9 small wall mounted air-conditioning units. These units are non-energy efficient and do not provide the required fresh-air mixture as required by Code. This configuration also limits the ability of interior modifications to the facility by allowing open space design only. The existing system should be replaced with a central air-conditioning system with a duct supply and return on both floors that will have the appropriate fresh air make-up to comply with Code requirements. The estimated cost of this work is \$35,000. The building also has an ice-making machine that is in good working condition.

#### General Building

The inspection of the general building revealed many issues that should be addressed. Interior carpeting on both floors needs to be replaced. Also, sub-flooring in multiple areas has signs of rot and the wood sub-flooring will need to be replaced. Some exterior doors and windows in the building need replacement and interior walls, ceilings, cabinets and other interior elements are in need of repair. Exterior stair railings, building plaster/stucco and openings need to be repaired or replaced. A detailed list is provided in this report with an estimated cost of \$56,500 for the needs. There are also signs of previous or existing termite infestation of the building.

#### Painting

If modifications are made to remove the existing wall air-conditioning units and patch the existing openings through the exterior walls, this would require patching, priming, sanding, caulking, and finish costing of the interior and exterior of the building. The estimated cost for the complete painting of the facility is \$16,600.

#### ADA Requirements

Although interior renovations of the building have been done in the past by the City, and restrooms and kitchen areas were constructed to be ADA compliant, the building does not provide for path of travel requirements to the second floor level. To meet this requirement, an elevator will need to be installed in the building. The estimated cost of an elevator and shaft construction would be in the \$80,000-\$100,000 range depending on the foundation and structural requirements. In addition, signage, railings, strobe lights, ramps, and other minor elements will be required.

#### Building and Fire Department Inspector Comments

On April 6, 2004, inspectors from the building and fire Departments walked through the facility to make their own determinations of existing conditions of the 1833 Bay Road Building for the purpose of providing the information to allow cost estimates for this report.

The current use of the facility presents a major problem with both of the regulatory agencies. Both consider the use of the ground floor as a sign shop as "hazardous or industrial use" and the second floor offices as "Business use." There are no fire rated assemblies or protections between the floors as would be required for these two types of occupancy in the same facility.

The following is the comments of the Building and Fire Inspectors and the associated costs for the correction of the deficiencies found.

Mechanical (HVAC) comments (Building Department)

- Combustibles cannot be stored inside of building.

To be determined by future use of the facility.

- Need outside air 1<sup>st</sup> and 2<sup>nd</sup> floors.

This item would be corrected with the installation of a central air-conditioning system previously mentioned if installed to Code requirements to provide fresh air to both floors.

- Central Air Conditioning on second floor not accessible for service.

This item would also be addressed with the installation of a new central air-conditioning system in the facility.

Preliminary List of Building Code Deficiencies (Building Department)

- Check for Fire separation and penetrations between floors (tenants).

With current occupancy and according to the Fire Department, the floor separation would be required to have a four hour fire rating. Although the cost of a 4 hour rated assembly is known (approximately \$8.00 per sq.ft. x 3,000 sq. ft. = \$24,000), there has been no structural evaluations of the beam and floor assembly to determine if the weight of the fire rated materials can be supported by the existing structure.

- Stairs are not in conformance in variations. (rise and run)

This will require forming and pouring of concrete or epoxies to provide consistency within 3/16 of an inch in both run and rise. Estimated cost \$2,500.

- Railing deficiencies in height and rail spacing.

Stair railing will need to be replaced to comply with code. Estimated costs are \$5,000.

- Storage of flammable liquids on the first floor including gasoline, gas fired equipment, generators, spray painting equipment, and paint.

To be determined by future occupancy and use of the facility.

- Emergency egress issues in the building.

I have asked for clarification on this issue as I see no egress issues on either floors of the facility. There are at least two exits on each floor. From any point in the facility a person is within 75 l.f. of an emergency egress exit. Unless this comment is in reference to the paint shop or current use, I see no egress issues in the facility.

- Depending on occupancy and renovation, need to install an elevator and address accessibility issues.

This Item and estimated costs was previously addressed in this report. This is a "Path of Travel" requirement under ADA regardless of occupancy or renovation.

- Structural evaluation of the building by a licensed Structural Engineer needed.

A structural evaluation of the facility should be done prior to the purchase of the property to determine some of the information about expected use and load calculations for fire rated assembly installations. Estimated cost is \$3,000.

- Load calculations required for the second floor.

This would be included and provided in the structural evaluation.

- Hallway widths too narrow.

I could find no code violations with the existing hallway widths.

- May require fire or smoke alarms.

This could be correct depending on the future use of the facility if a paint shop is to remain. Estimated costs are \$6,000 for a hard wired system with monitoring.

- Testing of existing concrete strengths.

To be determined by the results of the structural survey, if necessary.

- Roof evaluation (survey )

We are aware that the roof on the building was installed in 1995. With a ten year warranty, it could have a need for total replacement. A survey of the roof would cost approximately \$2,500 to include survey and specification development and would be recommended prior to the purchase of the facility. A total replacement of the existing roof would cost in the range of \$36,000-\$40,000.

#### Preliminary List of Fire Code Deficiencies (Fire Marshall Office)

- No tenant separation. ( fire rating )

This item was previously addressed in the report.

- Hazardous materials stored on first floor.

This item was previously addressed in the report.

- Problems with handrails, guardrails, steps and landings on the second floor.

This item was previously addressed in the report.

- Exit and emergency lights.

Repairs would cost under \$1,000.

- Exit discharge problems.

I am not aware of any exit discharge issues or problems with the facility.

- Ventilation of fumes (chemicals) from building. (fresh air exchange).

This item is specific to the continued use of the facility as a paint/sign shop. Normal use of this type of occupancy requires a specialized spray booth and enough ventilation to make multiple air exchanges of the space within a one hour period. Although it could be argued that this is not a real paint shop, the use of spray painting equipment, gasoline, and gas fired equipment would trigger the same Code requirements. To add a ventilation system capable of the requirements would cost approximately \$15,000. However the use of the equipment would severely affect the air-conditioning in the building unless all use of this type is contained into one area of the building.

#### Conclusion

Based on the inspections made by Property Management, Building, and Fire Departments the estimated costs to bring the facility into Code and in good operational order is estimated to be \$316,600. This does not include any elements that may be required by the results of the structural survey or requirements to continue the use of the facility under a hazardous/industrial use occupancy. Prior to the purchase of the facility, I would highly recommend the following surveys be completed to provide additional understanding of existing conditions of the facility.

- Roof assessment survey ( base \$1,000, with specifications for replacement \$2,500 )

- Environmental site assessment survey including asbestos. (\$3,000)
- Termite/extermination survey (\$1,000 )
- Structural survey (\$2,500 )

A consideration should be made as to the continued use of the facility as industrial/hazardous occupancy. A separate small facility or shop could be placed on the site to eliminate this type of problem and provide a space for painting and the storage of hazardous materials. The savings of eliminating the double use occupancy of the building would be enough to fund a major part of this small facility and will reduce code compliance issues within the building.

In a overall estimate based on worst case scenarios from the surveys, and to provide a reasonable amount of funds to do minor interior renovations of the space (6,000 x \$20.00 per sq. ft = \$120,000), I would estimate the total need for the facility would have an expected cost range of between \$450,000-\$500,000.

I hope this report provides the information you have requested.

BAJ

*C:\My Files\Christina\1833 Bay Road.doc*

Cc: Fred Beckmann Public Works Director  
Joe Damien Asset Manager



**THE CITY OF MIAMI BEACH**  
**PROPERTY MANAGEMENT DEPARTMENT**  
 1245 MICHIGAN AVENUE  
 MIAMI BEACH, FLORIDA 33139  
 Tel. (305) 673-7630 Fax (305) 673-7963



**1833 BAY ROAD  
 (SIU OFFICES) INSPECTION**

The following is a list of HVAC equipment at the current SIU site:

UNIT	LOCATION	MAKE	SIZE	AGE	REMAINING SERVICE (yrs.)	REPLACEMENT COST
Wall unit	1st. Floor	Friedrich	24,000 btu's	5	3*	\$650.00**
Wall unit	1st. Floor	Friedrich	24,000 btu's	5	3*	\$650.00**
Wall unit	1st. Floor	Friedrich	24,000 btu's	5	3*	\$650.00**
Wall unit	1st. Floor	Friedrich	24,000 btu's	5	3*	\$650.00**
Wall unit	1st. Floor	Friedrich	18,000 btu's	1	7*	\$600.00**
Wall unit	1st. Floor	Friedrich	12,000 btu's	5	3*	\$500.00**
Ice machine	1st. Floor	Scotsman	App. 500 lbs. 24 hours	5	5	\$3,000.00**
Wall unit	2nd. Floor	Friedrich	24,000 btu's	9	0*	\$650.00**
Wall unit	2nd. Floor	Friedrich	24,000 btu's	9	0*	\$650.00**
Wall unit	2nd. Floor	Carrier	12,000 btu's	5	0***	\$500.00**
Split system	2nd. Floor	American Standard	36,000 btu's	10+	0*	\$2,500.00

\* The projected service life of all air conditioning units in our equipment inventory is largely dependent on the level of exposure to the weather and the proximity to the ocean. Most of these units already have partially corroded condenser coils.

\*\* Cost of equipment only (No labor).

\*\*\* This unit is non-operational and due for replacement.

**GENERAL NOTES**

1. The approximate total area under air conditioning is 6,000 square feet. The estimated installation cost of new central air conditioning units and duct work is \$30,000.00. This does not include electrical upgrades.
2. The current first floor occupancy will require hazardous chemicals exhaust system. The total estimated cost of such exhaust system is \$10,000.00 to \$15,000.00. If painting activities will continue, additional cost will be incurred should a spray booth be required.
3. The estimated area currently under central air conditioning is 750 square feet.



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1245 MICHIGAN AVENUE  
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**1833 BAY ROAD  
(SIU OFFICES) INSPECTION**

The following is a list of bathrooms and kitchens at the current SIU site:

UNIT	LOCATION	AGE	PROJECTED SERVICE (yrs.)	RENOVATION COST
Bathroom	1st. Floor	5	10+	\$10,000.00
Bathroom	1st. Floor	5	10+	\$10,000.00
Kitchen	1st. Floor	5	10+	\$5,000.00
Bathroom	2nd. Floor	9	6+	\$10,000.00
Bathroom	2nd. Floor	9	6+	\$10,000.00
Kitchen	2nd. Floor	9	6+	\$5,000.00

**NOTES**

1. Bathroom and kitchen facilities were found in good working condition.
2. A small section of the building's piping is galvanized. Most of the existing plumbing is copper piping. The estimated replacement cost of the existing galvanized piping is \$3,000.00. The estimated installation cost of a back flow preventor is \$3,500.00.

## **ELECTRICAL INSPECTION OF SIU BUILDING**

An inspection of this building was completed April 7<sup>th</sup> 2004 and the following conditions were found:

1. The Electrical Service is located on the east side of the building. It has a single phase 120/208V 150A main disconnect switch which feeds a 200A 42 circuit WP panel board. All breaker screws were tightened upon inspection and the equipment is in good working condition. The bottom of the 42 circuit panel is showing signs of rust and needs to be zinc coated.
2. There are two 120/208V 125A 24 circuit sub-panels on the second floor of the building, all breaker screws were tightened upon inspection and the equipment is in good working condition.
3. All Electrical devices receptacles, switches, disconnect switches, and lighting were tested for proper operation and grounding and found to be in good working condition.

All electric in this building is in good working condition and should only require minimum maintenance over the next ten years.



# **Property Management Maintenance Division**

4/8/04

## **GENERAL BUILDING INSPECTION**

On April 7, 2004, a complete inspection was made on the building being used by Meter Parking and SIU.

The Carpenter Shop found the building average condition but sound for its age. Below is a list of repairs and estimates.

### **FIRST FLOOR:**

- a) Carpet needs to be removed and new flooring installed. **est: \$8,500**
- b) Drop ceiling needs tiles and adjustments. **est: \$2,500**
- c) Front door with window and frame (steel). **est: \$1,000**
- d) Remodel the restroom. **est: \$4,000**

**Subtotal: \$16,000**

### **SECOND FLOOR:**

- a) Carpet need replacing, wood under carpeting has some bad area. **est: \$10,000**
- b) Patch holes and repair drywall. **est: \$1,000**
- c) Kitchen needs new cabinets. **est: \$3,000**
- d) One 36" x 80" door and frame needs replacing. **est: \$1,000**
- e) There is evidence of termites. **est: \$ ?**
- f) Drop ceiling tiles replacement. **est: \$1,000**
- g) Two restrooms needs remodeling. **est: \$8,000**
- h) Back upper stairwell, inside floor is rotten. **est: \$600**
- i) Replacing rotted exterior door and jamb located at the upper rear of stairs in building. **est: \$1,000**
- j) Installing an awning at above door location. **est: \$400**

**Subtotal: \$26,000**

### **MAIN STAIRWELL AND EXTERIOR:**

- a) Front main stairwell needs exterior door and jamb including stucco work. **est: \$1,500**
- b) Main stairwell at 2<sup>nd</sup> level needs a complete drop ceiling replaced. **est: \$3,000**
- c) Bottom of main stairwell need a 4 ft x 10ft area blocked up. **est: \$1,000**
  
- d) Back exterior of building needs to have stucco and a scalar. **est: \$6,500**
- e) All windows need maintenance and caulking. **est: \$2,500**

**Subtotal: \$14,500**

<b>FIRST FLOOR</b>	<b>\$16,000</b>
<b>SECOND FLOOR</b>	<b>\$26,000</b>
<b>MAINT STAIRWELL AND EXTERIOR</b>	<b><u>\$14,500</u></b>
<b><i>TOTAL:</i></b>	<b><u>\$56,500</u></b>

The above dollar figure shows the cost of the labor and materials. This estimate is from the carpenter shop only and would bring the building up to good standing.

The only thing not included is the cost of an exterminator. There is evidence of termites so the building should be treated. If you have any questions please feel free to give me a call.

**PAINTING ESTIMATE  
1833 BAY ROAD BUILDING**

**Scope of work**

Patching, priming, sanding, caulking and finish coating of inside and outside building.

**Labor & Material Cost**

**Building Interior**

First Floor  
2 men @ 5 days - \$ 2,819  
Paint                   \$ 240  
  
Total               \$ 3,059

Second Floor and Staircase  
2 men @ 12 Days \$ 6,766  
Paint                   \$ 300  
  
Total               \$ 7,066

Total Interior   \$ 10,125

**Grand Total       \$16,587**

**Exterior Interior**

Pressure Clean  
2 men @ 2 days - \$ 1,127  
  
Total           \$ 1,127

Prime  
2 men @ 4 days - \$ 2,255  
Paint                   \$ 525  
  
Total           \$ 2,780

Finish Coat  
2 men @ 4 days- \$ 2,255  
Paint                   \$ 300

Total           \$ 2,555

Total Exterior   \$ 6,462



# CITY OF MIAMI BEACH

## BUILDING DEPARTMENT ACCESSIBILITY COMMENTS

**Date:** April 12, 2004  
**Address:** 1833 Bay Rd.  
**Permit No.** N/A  
**Inspector:** Gladys N. Salas  
**Description:** Accessibility Compliance for 1833 Bay Rd.

Since some unforeseen conditions can not be established with a sole inspection it is difficult to give a single answer of accessibility requirements at this point. Nevertheless, the following is a list of three scenarios that can apply:

- 1- If the building will remain as it is and not alterations are planned or required and if the building will be not open to the public then the building can remain as it is, with the exemption of minor changes to correct some violations as follow:
  - a- In the non- accessible entrance provide a sign indicating the location of the nearest accessible entrance.
  - b- The accessible bathroom shall be identify as accessible and the non-accessible bathroom to have directional signs indicating the location of the accessible bathroom.
  - c- The stairs to the second floor shall be upgraded to comply with all provisions of the Florida Building Code section 11-4.9.
- 2- If alterations are planned or are required then alterations has to be designed and built in compliance with the Florida Building Code section 11-4.1.6 and with the ADA Title II. Therefore the following items should be considered:
  - a- All altered areas must be design and build accessible.
  - b- Up to 20% of the cost of construction must be to improve the accessibility to the path of travel. Path of travel: Accessible route from sidewalk to the building, make main entrance accessible, make drinking fountain and public telephones accessible.
  - c- Vertical accessibility to all levels shall be provided: Elevator to the second floor must be provided since the elevator exemption does not apply to local government buildings.
- 3- If the second floor will be open to the public then the installation of an elevator and construction to make all public or common used areas accessible to comply with the program access requirement. The following is a list with some of improvements that will be necessary to improve accessibility to the building.

- a- Design and built accessible parking spaces near the accessible entrance.
- b- Make the main entrance accessible
- c- Providing an elevator to the second floor
- d- Providing at least one unisex accessible bathroom per floor.
- e- Making all programs and services accessible.
- f- Installing signage.

**Accessible:** Means in compliance with the Florida Building Code section 11 and with the American with Disabilities Act Title II.

The list of corrections may vary depending of the planned or required alterations.

**Judd, Brad**

**From:** Damien, Jose  
**Sent:** Thursday, April 08, 2004 1:37 PM  
**To:** Judd, Brad  
**Cc:** Beckmann, Fred; Cuervo, Christina; Reboso, Robert  
**Subject:** COMMENTS REGARDING 1833 BAY ROAD WALK-THRU  
**Importance:** High

Brad, below are the first 2 set of comments received from the parties that were on site yesterday (04/07/04). I will forward the balance of the comments as they are received.

**Mechanical (HVAC) comment:**

- Combustibles cannot stored inside of building
- need outside air 1<sup>st</sup> and 2<sup>nd</sup> floor
- central a/c system on second floor not accessible for servicing

**Preliminary list of Building Code\* related deficiencies found at the above noted address.**

1. Check for fire separation between tenants. (Through Penetrations)
2. Stairs not in conformance variations in rise and run.
3. Railing deficiencies height and rail spacing.
4. Storing of flammable liquids on the first floor gasoline and gas fired equipment (generators, traffic line painting machines).
5. Egress issues in the building.
6. Depending on occupancy and renovation upgrades may need to install elevator and address accessibility issues.
7. Have a structural evaluation of building by a private licensed structural engineer.
8. What kind of loads will be put on second floor?
9. Hallway widths are very narrow.
10. May want Fire alarm (smoke detectors at least).
11. May want to check concrete strengths.
12. Evaluation of roof may be in order.

\* Please note that inspections were not thorough structural inspection but a general overview of the facility. Final determination of occupancy on the first or second floor may trigger other code issues. Inspection do not constitute a structural evaluation, they only address building issues.

4/9/2004

**Judd, Brad**

**From:** Machen, Sonia  
**Sent:** Friday, April 09, 2004 4:22 PM  
**To:** Judd, Brad  
**Subject:** FW: 1833 Bay

**Sonia Flores Machen**  
Fire Marshal  
Miami Beach Fire Department

2300 Pinetree Drive  
Miami Beach, FL 33140  
Ph.: 305-673-7123  
Fx.: 305-673-1085

-----Original Message-----

**From:** Machen, Sonia  
**Sent:** Thursday, April 08, 2004 8:09 AM  
**To:** Weston, David  
**Subject:** RE: 1833 Bay

Thank you very much.

**Sonia Flores Machen**  
Fire Marshal  
Miami Beach Fire Department

2300 Pinetree Drive  
Miami Beach, FL 33140  
Ph.: 305-673-7123  
Fx.: 305-673-1085

-----Original Message-----

**From:** Weston, David  
**Sent:** Thursday, April 08, 2004 7:58 AM  
**To:** Machen, Sonia  
**Cc:** Guise, Glenda  
**Subject:** 1833 Bay

1833 Bay is a two-story CBS building, 3000 square feet each level on an 8000 square foot lot. According to parking the building has never been inspected and has been occupied by parking for 20 years. The PD is upstairs and parking is downstairs. Both rent the space from a private owner. PD is moving out and a new tenant may move in. Alternatively the city may buy the property.

There is no tenant separation between floors and hazardous materials are stored on the first floor. The first floor would be currently classified as Industrial occupancy and the second floor is currently used as a business occupancy.

There are problems with the handrails, guard rails, steps and landings on the second floor. Existing exit signs appear to be burnt out. There do appear to be exit discharge problems.

dcw

4/12/2004

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**CITY OF MIAMI BEACH  
CITY ATTORNEY'S OFFICE**

**TO:** Jorge M. Gonzalez  
City Manager

**FROM:** Murray H. Dubbin  
City Attorney



**DATE:** April 9, 2004

---

Attached is a proposed Resolution for the Mayor and Commission, expressing support of House Bill 1223, Condominium Associations, sponsored by Representative Leo Robaina.

This has been requested by Commissioner Luis Garcia who desires that it be placed for consideration on the April 14, 2004 Commission Agenda.

MHD:lm

Encl.

cc: Commissioner Luis R. Garcia, Jr.

Agenda Item R9I  
Date 4-14-04

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION  
OF THE CITY OF MIAMI BEACH, FLORIDA, EXPRESSING  
SUPPORT OF HB 1223 PRESENTLY PENDING BEFORE THE  
FLORIDA LEGISLATURE, RELATING TO CONDOMINIUM  
ASSOCIATIONS.**

**WHEREAS**, during the interim prior to the 2004 legislative session, the Speaker of the Florida House of Representatives appointed the Select Committee on Condominium Association Governance. The charge of the committee was to take public testimony and review current laws regulating the governance of condominium associations to identify any improvements in those laws that might be recommended. The select committee was instructed to issue a report prior to the beginning of the 2004 session outlining any recommendations for legislation consistent with the committee's conclusions.

**WHEREAS**, the select committee issued its report on January 21, 2004. The chairman of the select committee, Representative Robaina, stated in the report that "after listening to all public testimony throughout the State of Florida, I submit to you a number of concerns proposed by the residents of this state and a number of my suggestions along with those referred to me by my committee members . . ."

**WHEREAS**, HB 1223 has been proposed to implement the work of the select committee and among other reforms amends various provisions in chapter 718, F.S., the "Condominium Act." The bill expands several provisions to address the relationship between condominium unit owners and condominium associations. The bill creates the Office of the Condominium Ombudsman to be located in the Division of Land Sales, Condominiums, and Mobile Homes for administrative purposes. The ombudsman is to be appointed by the Joint Legislative Auditing Committee. The bill creates a seven member Advisory Council on Condominiums to assist in making recommendations for improving the relationship between unit owners and their association.

**WHEREAS**, the effect of the select committee study and the legislation which has resulted from it is to provide much needed reform to the Florida Condominium Law to the benefit of the many condominium residents in Miami Beach and elsewhere.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND MEMBERS  
OF THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**Section 1.** The City of Miami Beach supports the purposes of HB 1223 and urges its Representatives (House and Senate) to support its enactment.

**Section 2.** A certified copy of this Resolution shall be supplied by the City Clerk to the Speaker of the Florida House of Representatives, the President of the Senate, the Governor and all Senators and House Members representing Miami Dade County in the legislature.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of April, 2004.

**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

MHD:lm

F:\atto\DUBM\RESOLUT\garciacondomin.doc

**APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION**

W. G. Sullivan 4-7-04  
City Attorney Date



CONTACTS NEWS TRACKING

City of Miami Beach

## SYSTEM MESSAGE

2/25/04 12:02PM [close]

This account expires 3/11/04.  
Please contact John Iarussi at  
850-915-0142 to renew.

Email To Friend

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## HB 1223 - Relating to Condominium Associations - 2004

## Research

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## - PCB's

☐ Statutes☐ Calendars☐ Legislators

## - Senate

## - House

☐ Committees

## - Senate

## - House

## - Joint

## Reports

☐ Your Bill Reports☐ Bill Comparison☐ House Actions☐ Senate Actions☐ Enrolled Bills☐ Mailing Labels☐ Session Live

## Sponsor(s)

by State Administration, Business Regulation, Robaina CoSponsors: Antone, Arza, Barreiro, Llorente, Murzin, Rivera, Rubio, Zapata, Cantens, Garcia, Wiles, Carroll, Gannon

## Summary

General Condominium Associations; prohibits exercise of multiple votes by owners of multiple units; provides for grandfathering & modification of rental rights; provides certain voting & approval criteria for amendments depriving owners of certain rights; authorizes association to conduct criminal background checks of potential unit owners & tenants; requires creation of Condominium Owners' Bill of Rights, etc. Amends Ch. 718.  
EFFECTIVE DATE: Upon becoming law.

## Actions

Date	Chamber	Action
02/23/04	HOUSE	Filed
03/05/04	HOUSE	Referred to Business Regulation; State Administration; Appropriations
03/08/04	HOUSE	On Committee agenda-- Business Regulation, 03/10/04, 3:15 pm, Morris Hall
03/10/04	HOUSE	CS by Business Regulation; 33 Yeas, 6 Nays
03/22/04	HOUSE	Original reference(s) removed: State Administration; Appropriations -HJ 00309; CS referred to State Administration; Commerce & Local Affairs Appropriations (AP); Appropriations -
03/25/04	HOUSE	On Committee agenda-- State Administration, 03/29/04, 8:00 am, Reed Hall
03/29/04	HOUSE	CS by State Administration; 6 Yeas, 0 Nays

## Find 2004 Bill

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## Compare Bills

SB 1184 - Relating to Condominium & Community Association by JudiciarySB 1990 - Relating to Condominiums by AronbergHB 1663 - Relating to Condominiums/Disclosure Document by Brandenburg

## Similar Bills

SB 2498 - Relating to Condominium Associations by Garcia

## Bill Text and Filed Amendments

H 1223	02/23/04	[TEXT]  PDF
No amendments to this bill text.		
H 1223C1	03/16/04	[TEXT]  PDF
No amendments to this bill text.		
H 1223C2	04/02/04	[TEXT]  PDF
No amendments to this bill text.		

## Staff Analysis

h 1223	<u>Business Regulation</u>	PDF
h 1223a	<u>Business Regulation</u>	PDF
h 1223		PDF
h 1223b	<u>State Administration</u>	PDF
h 1223c	<u>State Administration</u>	PDF

h 1223

State Administration PDF

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**Vote History**

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No vote history for this bill.

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**Related Documents**

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No related documents.

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**Statute Citations**

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[718.103](#)[718.104](#)[718.11](#)[718.112](#)[718.1125](#)[718.116](#)[718.3025](#)[718.3026](#)[718.305](#)[718.501](#)[718.5011](#)[718.5012](#)[718.5013](#)[718.5014](#)[718.5015](#)[718.504](#)[718.51](#)

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1223 w/CS Condominium Associations

**SPONSOR(S):** Representative Robaina

**TIED BILLS:** **IDEN./SIM. BILLS:**

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Business Regulation	33 Y, 6 N w/CS	Livingston	Liepshutz
2) State Administration			
3) Appropriations			
4)			
5)			

---

### SUMMARY ANALYSIS

A condominium is "that form of ownership of real property which is created pursuant to the provisions of this chapter [ch.718, F.S.], which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."

During the interim prior to the 2004 legislative session, the Speaker of the Florida House of Representatives appointed the Select Committee on Condominium Association Governance. The charge of the committee was to take public testimony and review current laws regulating the governance of condominium associations to identify any improvements in those laws that might be recommended. The select committee was instructed to issue a report prior to the beginning of the 2004 session outlining any recommendations for legislation consistent with the committee's conclusions.

The select committee issued its report on January 21, 2004. The chairman of the select committee, Representative Robaina, states in the report that "after listening to all public testimony throughout the State of Florida, I submit to you a number of concerns proposed by the residents of this state and a number of my suggestions along with those referred to me by my committee members...."

HB 1223 has been proposed to implement the work of the select committee and amends various provisions in chapter 718, F.S., the "Condominium Act." The bill expands several provisions to address the relationship between condominium unit owners and condominium associations. The bill creates the Office of the Condominium Ombudsman to be located in the Division of Land Sales, Condominiums, and Mobile Homes for administrative purposes. The ombudsman is to be appointed by the Joint Legislative Auditing Committee. The bill creates a seven member Advisory Council on Condominiums to assist in making recommendations for improving the relationship between unit owners and their association.

The fiscal impact of the bill has not been finalized at this time. However, the select committee notes: monies allocated to the trust fund that are generated by condo unit owners must be left to serve only the condo association's needs and not diverted from the account to help fund other initiatives of the state. The trust fund is currently funded by a \$4 unit fee paid by 1.1 million unit owners in the state of Florida. These funds are essential in bringing forth the much needed changes and also to further the education of home owners and board members.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1223a.br.doc  
**DATE:** March 13, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Reduce government - The bill expands several provisions to address the relationship between condominium unit owners and condominium associations. The bill creates the Office of the Condominium Ombudsman and provides for duties and staffing. The bill creates a seven member Advisory Council on Condominiums.

#### B. EFFECT OF PROPOSED CHANGES:

During the interim prior to the 2004 legislative session, the Speaker of the Florida House of Representatives created the Select Committee on Condominium Association Governance. The charge of the committee was to take public testimony and review current laws regulating the governance of condominium associations to identify any improvements in those laws that might be recommended. The select committee was instructed to issue a report prior to the beginning of the 2004 session outlining any recommendations for legislation consistent with the committee's conclusions.

The select committee issued its report on January 21, 2004. The chairman of the select committee, Representative Robaina, states in the report that "after listening to all public testimony throughout the State of Florida, I submit to you a number of concerns proposed by the residents of this state and a number of my suggestions along with those referred to me by my committee members...."

HB 1223 has been crafted to implement the work of the select committee and amends various provisions in chapter 718, F.S., the "Condominium Act," governing condominium associations. A condominium is "that form of ownership of real property which is created pursuant to the provisions of this chapter, which is comprised of units that may be owned by one or more persons, and in which there is, appurtenant to each unit, an undivided share in common elements."

Issues identified by the Select Committee on Condominium Governance and implementing provisions of HB 1223 are addressed below.

Section 1. The bill amends s. 718.103, F.S., relating to definitions.

**Identified issue:** Multiple family members or relatives were serving on the same board creating a conflict of interest.

Board members or family of board members are employed by management companies of many associations.

**Recommendation:** The bill creates a definition of "immediate family member" for purposes of clear application of several provisions of the bill relating to potential conflict of interest.

Section 2. The bill amends s. 718.110, F.S., relating to amendments to the condominium declaration.

**Identified issue:** Owners are being impacted fiscally and through hardships by board member decisions.

**Recommendation:** The bill provides that amendments to the association declaration that restrict specified rights of the unit owners shall only apply to owners who purchase their unit after the effective date of that amendment. It also requires a vote of three-fourths vote for approval.

Section 3. The bill amends s. 718.112, F.S., relating to bylaws.

**Identified issue:** Reserves not being maintained at any specific percentage rate.

**Recommendation:** The bill requires a two-thirds vote, rather than a simple majority vote, to provide no reserves or less reserves than are calculated by formula under this subsection.

Section 4. The bill creates s. 718.1125, F.S., relating to board eligibility restrictions.

**Identified issue:** Multiple family members or relatives were serving on the same board creating a conflict of interest.

Board members did not live in the community and/or country due to the fact that they are investment properties and not their primary residence.

**Recommendation:** The bill prohibits a board member from sitting on the board alongside an immediate family member unless approved by a majority vote of the unit owners present and voting. The bill requires that board members must live in the condominium for at least three months prior to sitting on the board.

Section 5. The bill amends s. 718.116, F.S., relating to assessments, liability, and liens.

**Identified issue:** Liens being placed on unit owners and home owners without notice.

Unit owners are not given sufficient time to respond or correct violations and are being cited with fines immediately.

Board members willfully and knowingly expediting the lien and foreclosure process in order to buy the properties themselves at a foreclosure price.

Owners are being impacted fiscally and through hardships by board member decisions.

**Recommendation:** The bill specifies that liens may not be recorded without giving notice of the claim of lien. The bill requires the association to deliver a notice of intent to record a claim to the unit owner and provide a 30 day time period for the owner to respond. The bill creates a penalty of a misdemeanor of the first degree for those persons who willfully and maliciously place liens in an attempt to foreclose on other unit owners' properties.

Section 6. The bill creates s. 718.130, F.S., relating to attorney's fees.

**Identified issue:** No caps exist on attorney's fees and they can charge without limits.

**Recommendation:** A cap on attorney's fees for form letters sent to owners.

The bill prohibits an attorney from charging in excess of \$75 per letter for correspondence, collection efforts, litigation, or other business arising under this chapter.

Section 7. The bill amends s. 718.3025, F.S., relating to operation and management.



**Identified issue:** Board members, community association managers (CAMs), and/or property management companies are giving friends or family or companies that they are affiliated with contracts for work in the condominium.

Multiple family members or relatives were serving on the same board creating a conflict of interest.

Board members do not file any type of financial disclosures.

Board members or family of board members are employed by the management company of many associations.

**Recommendation:** The bill requires disclosure of financial and ownership conflicts of interest by board members, CAMs, and property management companies with contractors doing maintenance or management business with that condominium. If the conflicting contractor is selected by the board, the conflict must be disclosed and approved by a majority vote of the unit owners.

Section 8. The bill amends s. 718.3026, F.S., relating to contracts for products and services.

**Identified issue:** Board members, community association managers (CAMs), and/or property management companies are giving friends or family or companies that they are affiliated with contracts for work in the community.

Contracts were given out without a competitive bidding process.

**Recommendation:** The bill requires that the association obtain no fewer than three competitive bids for materials, equipment, or services if the aggregate cost exceeds two and one half percent, rather than five percent, of the association annual budget.

Section 9. The bill amends s. 718.501, F.S., relating to duties of the division.

**Identified issue:** Owners are being impacted fiscally and through hardships by board members decisions.

Residents do not know how the state addresses their rights and concerns.

**Recommendation:** Currently, the division has the authority to provide training for board members and unit owners. The bill requires mandatory training for newly elected board members and current board members who have not previously voluntarily attended training.

Section 10. The bill creates s. 718.5011, F.S., relating to the Office of the Ombudsman.

**Identified issue:** Currently, there is no department that has the power to settle disputes between condominium owners and their respective associations, that can help monitor elections and meetings, that can fine members, etc.

**Recommendation:** The bill creates the Office of the Condominium Ombudsman to be located in the division for administrative purposes. The ombudsman is to be appointed by the Joint Legislative Auditing Committee by a majority vote of the committee members.

Section 11. The bill creates s. 718.5012, F.S., relating to duties of the ombudsman.

**Identified issue:** Currently, there is no department that has the power to settle disputes between condominium owners and their respective associations, that can help monitor elections and meetings, that can fine members, etc.

**Recommendation:** The bill specifies the powers and duties of the ombudsman, including the use of division records, making of recommendations for legislation, authority to act as liaison between parties to a dispute or complaint, recommending the initiation of enforcement proceedings, and making recommendations to the division for addressing complaints.

Section 12. The bill creates s. 718.5013, F.S., relating to ombudsman expenditures.

**Identified issue:** Currently, there is no department that has the power to settle disputes between condominium owners and their respective associations, that can help monitor elections and meetings, that can fine members, etc.

**Recommendation:** The bill authorizes that costs and expenditures of the ombudsman office be paid out of the division operational trust fund. It authorizes the Joint Legislative Auditing Committee to approve staffing for the office.

Section 13. The bill creates s. 718.5014, F.S., relating to the location of the ombudsman office.

**Identified issue:** Currently, there is no department that has the power to settle disputes between condominium owners and their respective associations, that can help monitor elections and meetings, that can fine members, etc.

**Recommendation:** The bill specifies the ombudsman office be located in Leon county.

Section 14. The bill creates s. 718.5015, F.S., relating to the creation of the Advisory Council on Condominiums.

**Identified issue:** Currently, there is no department that has the power to settle disputes between condominium owners and their respective associations, that can help monitor elections and meetings, that can fine members, etc.

**Recommendation:** The bill creates a seven member Advisory Council on Condominiums. The council has the responsibilities to receive and process input from the general public relating to changes in the law and division rules, as well as, the education programs of the division.

Section 15. The bill amends s. 718.504, F.S., relating to litigation notification.

**Identified issue:** Lack of awareness by potential buyers, such as, being notified whether or not the association is or was in litigation or has incurred or will be incurring liabilities.

**Recommendation:** The bill expands the current "Frequently Asked Questions and Answers" sheet to include additional information. The bill requires the prospectus or offering circular to contain information relating to litigation or potential litigation which may expose the association to liability.

Section 16. The bill transfers the licensure program for community association managers to the division by a type two transfer.

Section 17. The bill authorizes the continuation of active administrative cases under the DBPR against CAMs.

Section 18. The bill creates s. 718.510, F.S., relating to the creation of a condominium owner bill of rights brochure.

**Identified issue:** Residents do not know how the state addresses their rights and concerns.

**Recommendation:** The bill requires the division to adopt rules to provide for a brochure entitled, "Condominium Owners' Bill of Rights."

Section 19. Effective date - upon becoming a law.

**C. SECTION DIRECTORY:**

See B. above.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

See D. fiscal comments, below.

**2. Expenditures:**

See D. fiscal comments, below.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

NA

**2. Expenditures:**

NA

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

See D. fiscal comments, below.

**D. FISCAL COMMENTS:**

The report of the select committee comments that:

Monies allocated to the trust fund that are generated by condo unit owners must be left to serve only the condo association's needs and not diverted from the account to help fund other initiatives of the state. The trust fund is currently funded by a \$4 unit fee paid by 1.1 million unit owners in the state of Florida. These funds are essential in bringing forth the much needed changes and also to further the education of home owners and board members.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

NA

**2. Other:**

NA

**B. RULE-MAKING AUTHORITY:**

NA

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None noted.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The CS differs from the original bill as follows:

Removes the provision specifying that a declaration or bylaw allowing a multiple unit owner in the same condominium to exercise multiple votes shall be void.

Removes language in the bill that creates a two year term limit for board members.

Removes language in the bill relating to mandatory criminal background checks by the board for all new potential unit owners and tenants.

Prohibits an attorney from charging in excess of \$75 per letter for correspondence, collection efforts, litigation, or other business arising under this chapter.

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CHAMBER ACTION

The Committee on State Administration recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to condominium associations; amending s. 718.110, F.S.; providing for grandfathering and modification of rental rights; providing for certain application of the amendment of unit owners' rental rights; providing certain voting and approval criteria for amendments depriving owners of certain rights; creating s. 718.5011, F.S.; creating an Office of the Condominium Ombudsman within the Division of Florida Land Sales, Condominiums, and Mobile Homes; providing for the office's independence from the division; authorizing the Joint Legislative Auditing Committee to appoint the ombudsman; requiring the ombudsman to be an attorney; providing for the filling of a vacant ombudsman position; requiring the ombudsman and staff to subscribe to the oath of office required of state officers; prohibiting the ombudsman and staff from engaging in any other profession, serving as a representative or employee of any political party, or receiving remuneration for activities on behalf of

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political candidates; prohibiting the ombudsman and staff from seeking public office unless resigned from the Office of the Condominium Ombudsman; providing requirements and limitations for office staff; creating s. 718.5012, F.S.; providing for powers and duties of the ombudsman; creating s. 718.5013, F.S.; providing for compensation and expenses for the office; authorizing the ombudsman to employ clerical and technical assistants for certain purposes; creating s. 718.5014, F.S.; providing for the location of the ombudsman's office; creating s. 718.5015, F.S.; creating the Advisory Council on Condominiums; providing for membership, functions, meetings, and offices of the council; amending s. 718.504, F.S.; revising provisions relating to certain prospectus and offering circulars; requiring developers of certain condominiums to provide a prospectus including a "Frequently Asked Questions and Answers" document; requiring the document to contain certain information; reducing the threshold amount to be required to be disclosed in controversy for litigation; preserving the department's authority to pursue certain remedies; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (13) is added to section 718.110, Florida Statutes, to read:

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718.110 Amendment of declaration; correction of error or omission in declaration by circuit court; grandfathering and modification of certain rights.--

(13) (a) Unless expressly stated in the amendment, any amendment restricting unit owners' rights relating to the rental of units, keeping of pets, or allocation of parking spaces shall apply only to unit owners who purchase their unit after the effective date of that amendment.

(b) Notwithstanding any other provision of law, or of the declaration or bylaws, if an amendment expressly deprives current unit owners of any part of their rights mentioned in subsection (a), it must be approved by at least a majority of the voting interests. A declaration or an amendment to a declaration may provide for a higher super majority vote requirement.

Section 2. Section 718.5011, Florida Statutes, is created to read:

718.5011 Ombudsman; appointment; oath; restrictions on ombudsman and his or her employees.--

(1) There is created an Office of the Condominium Ombudsman that for administrative purposes shall be located within the Division of Florida Land Sales, Condominiums, and Mobile Homes. However, the office shall be independent of the division.

(2) The Joint Legislative Auditing Committee shall appoint an ombudsman by majority vote of the members of that committee. The ombudsman shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the

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Joint Legislative Auditing Committee. Vacancies in the office shall be filled in the same manner as the original appointment. The ombudsman and attorneys under his or her staff shall take and subscribe to the oath of office required of state officers by the State Constitution. No officer or full-time employee of the ombudsman's office shall actively engage in any other business or profession; serve as the representative of any political party, executive committee, or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy. Neither the ombudsman nor any employee of his or her office shall become a candidate for election to public office unless he or she first resigns from his or her office or employment.

Section 3. Section 718.5012, Florida Statutes, is created to read:

718.5012 Ombudsman; powers and duties.--The ombudsman shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To have access to and use of all files and records of the division and of all condominium associations, by subpoena if necessary.



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104       (2) To conduct onsite inspections of condominiums,  
105       including surprise inspections in accordance with rules  
106       providing for such inspections.

107       (3) To prepare and issue reports, recommendations, and  
108       proposed orders to the division, the Governor, the Advisory  
109       Council on Condominiums, the President of the Senate, the  
110       Speaker of the House of Representatives, and minority leaders of  
111       the Senate and the House of Representatives on any matter or  
112       subject within the jurisdiction of the division, and to make  
113       such recommendations as he or she deems appropriate for  
114       legislation relative to division procedures, rules,  
115       jurisdiction, personnel, and functions.

116       (4) To act as liaison between the division and unit  
117       owners, and to assist any unit owner in the preparation and  
118       filing of a complaint to be investigated by the division. The  
119       ombudsman shall establish procedures for receiving complaints.  
120       Any complaint deemed valid by the ombudsman and properly falling  
121       within the jurisdiction of the division and requiring remedial  
122       action shall be identified and promptly filed with the division.  
123       Upon the concurrence of the division, the ombudsman shall  
124       establish target dates for concluding an investigation and for  
125       taking appropriate specified remedial action. The ombudsman may  
126       recommend that the division initiate enforcement proceedings in  
127       accordance with chapter 120. The department and the ombudsman  
128       may take findings of a criminal nature and submit them as  
129       evidence to the state attorney's office and work with such  
130       office to bring charges against the alleged parties involved.

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(5) To monitor, investigate, and review condominium elections and meetings. In addition, the ombudsman shall:

(a) Prove to the division, by clear and convincing evidence, that a member of a condominium board has attempted, engaged in, conspired to engage in, or willfully and knowingly benefited from electoral fraud in order for the division to order such member removed from office. Such an order of removal shall also prohibit such member from running for election to any office of the condominium board in the state for 4 years. If any person is so removed from office twice, such person shall be barred for life from serving on a condominium board. Factual findings forming the basis for an order of removal shall be subject to judicial review only for abuse of discretion.

(b) Jointly, with the division, adopt rules governing removal proceedings. Such rules shall, at a minimum, provide the accused board member with adequate notice, opportunity to be heard, the right to confront and cross-examine witnesses, the right to submit rebuttal evidence, and the right to counsel.

Neither this subsection nor rules adopted to implement it shall be construed to require provision of counsel or witnesses, or other assistance, at public expense.

(6) To resolve disputes among unit owners by ordering mediation or arbitration in the same manner as the division.

(7) To make recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by unit owners, associations, and managers.

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159 Section 4. Section 718.5013, Florida Statutes, is created  
160 to read:

161 718.5013 Ombudsman; compensation and expenses.--

162 (1) All costs and expenses incurred by the Office of the  
163 Condominium Ombudsman shall be paid from disbursements from the  
164 Division of Florida Land Sales, Condominiums, and Mobile Homes  
165 Trust Fund and shall require approval of the Joint Legislative  
166 Auditing Committee.

167 (2) The Joint Legislative Auditing Committee may authorize  
168 the ombudsman to employ clerical and technical assistants whose  
169 qualifications, duties, and responsibilities the committee shall  
170 from time to time prescribe, and to enter into such contracts as  
171 necessary. The committee may authorize retention of the services  
172 of additional attorneys or experts to the extent that the best  
173 interests of the people of the state will be better served  
174 thereby, including the retention of expert witnesses and other  
175 technical personnel for participation in contested proceedings  
176 before the division.

177 Section 5. Section 718.5014, Florida Statutes, is created  
178 to read:

179 718.5014 Ombudsman; location.--The ombudsman shall  
180 maintain his or her principal office in Leon County on the  
181 premises of the division or, if suitable space cannot be  
182 provided there, at such other place convenient to the offices of  
183 the division as will enable the ombudsman to expeditiously carry  
184 out the duties and functions of his or her office. The ombudsman  
185 may establish branch offices upon the concurrence of the Joint  
186 Legislative Auditing Committee

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Section 6. Section 718.5015, Florida Statutes, is created  
to read:

718.5015 Advisory council; membership functions.--

(1) There is created the Advisory Council on Condominiums.  
The council shall consist of seven members. Two members shall be  
appointed by the Speaker of the House of Representatives, two  
members shall be appointed by the President of the Senate, and  
three members shall be appointed by the Governor. At least one  
member shall represent timeshare condominiums. Members shall be  
appointed to 2-year terms; however, of the initial appointments,  
one of the members appointed by each of the Governor, the  
Speaker of the House of Representatives, and the President of  
the Senate shall be appointed to 1-year terms. In addition to  
these appointed members, the director of the Division of Florida  
Land Sales, Condominiums, and Mobile Homes shall serve as an ex  
officio member of the council. It is the intent of the  
Legislature that the persons appointed to this council represent  
a cross-section of persons interested in condominium issues. For  
administrative purposes, the council shall be located in the  
Division of Florida Land Sales, Condominiums, and Mobile Homes  
of the Department of Business and Professional Regulation.  
Members of the council shall serve without compensation, but  
shall be entitled to receive per diem and travel expenses  
pursuant to s. 112.061 while on official business.

(2) The functions of the advisory council shall be to:

(a) Receive input from the public regarding issues of  
concern with respect to condominiums and to receive  
recommendations for any changes to be made in the condominium

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law. The issues that the council shall consider shall include,  
but shall not be limited to, the rights and responsibilities of  
the unit owners in relation to the rights and responsibilities  
of the association.

(b) Review, evaluate, and advise the division concerning  
revisions and adoption of rules affecting condominiums.

(c) Recommend improvements, if needed, in the education  
programs offered by the division.

(3) The council is authorized to elect a chair and vice  
chair and such other offices as it may deem advisable. The  
council shall meet at the call of its chair, at the request of a  
majority of its membership, at the request of the division, or  
at such times as may be prescribed by its rules. A majority of  
the members of the council shall constitute a quorum for the  
transaction of all business and the carrying out of the duties  
of the council.

Section 7. Section 718.504, Florida Statutes, is amended  
to read:

718.504 Prospectus or offering circular; "Frequently Asked  
Questions and Answers".--Every developer of a residential  
condominium which contains more than 20 residential units, or  
which is part of a group of residential condominiums which will  
be served by property to be used in common by unit owners of  
more than 20 residential units, shall prepare a prospectus or  
offering circular and file it with the Division of Florida Land  
Sales, Condominiums, and Mobile Homes prior to entering into an  
enforceable contract of purchase and sale of any unit or lease  
of a unit for more than 5 years and shall furnish a copy of the

243 prospectus or offering circular to each buyer. In addition to  
244 the prospectus or offering circular, any prospective each buyer  
245 from the developer or a current unit owner shall be furnished a  
246 separate document page entitled "Frequently Asked Questions and  
247 Answers," which shall be in accordance with a format approved by  
248 the division and a copy of the financial information required by  
249 s. 718.111. This document page shall, in readable language,  
250 inform prospective purchasers regarding their voting rights and  
251 unit use restrictions, including restrictions on the leasing of  
252 a unit; shall indicate whether and in what amount the unit  
253 owners or the association is obligated to pay rent or land use  
254 fees for recreational or other commonly used facilities; shall  
255 contain a statement identifying that amount of assessment which,  
256 pursuant to the budget, would be levied upon each unit type,  
257 exclusive of any special assessments, and which shall further  
258 identify the basis upon which assessments are levied, whether  
259 monthly, quarterly, or otherwise; shall state and identify any  
260 court cases in which the association is currently a party of  
261 record in which the association may face liability ~~in excess of~~  
262 \$25,000 or more \$100,000; and which shall further state whether  
263 membership in a recreational facilities association is  
264 mandatory, and if so, shall identify the fees currently charged  
265 per unit type. The division shall by rule require such other  
266 disclosure as in its judgment will assist prospective  
267 purchasers. The prospectus or offering circular may include more  
268 than one condominium, although not all such units are being  
269 offered for sale as of the date of the prospectus or offering

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270 circular. The prospectus or offering circular must contain the  
271 following information:

272       (1) The front cover or the first page must contain only:

273           (a) The name of the condominium.

274           (b) The following statements in conspicuous type:

275               1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT  
276 MATTERS TO BE CONSIDERED IN ACQUIRING A CONDOMINIUM UNIT.

277               2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN  
278 NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES,  
279 ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES  
280 MATERIALS.

281               3. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY  
282 STATING THE REPRESENTATIONS OF THE DEVELOPER. REFER TO THIS  
283 PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT  
284 REPRESENTATIONS.

285           (2) Summary: The next page must contain all statements  
286 required to be in conspicuous type in the prospectus or offering  
287 circular.

288           (3) A separate index of the contents and exhibits of the  
289 prospectus.

290           (4) Beginning on the first page of the text (not including  
291 the summary and index), a description of the condominium,  
292 including, but not limited to, the following information:

293               (a) Its name and location.

294               (b) A description of the condominium property, including,  
295 without limitation:

296                   1. The number of buildings, the number of units in each  
297 building, the number of bathrooms and bedrooms in each unit, and

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the total number of units, if the condominium is not a phase condominium, or the maximum number of buildings that may be contained within the condominium, the minimum and maximum numbers of units in each building, the minimum and maximum numbers of bathrooms and bedrooms that may be contained in each unit, and the maximum number of units that may be contained within the condominium, if the condominium is a phase condominium.

2. The page in the condominium documents where a copy of the plot plan and survey of the condominium is located.

3. The estimated latest date of completion of constructing, finishing, and equipping. In lieu of a date, the description shall include a statement that the estimated date of completion of the condominium is in the purchase agreement and a reference to the article or paragraph containing that information.

(c) The maximum number of units that will use facilities in common with the condominium. If the maximum number of units will vary, a description of the basis for variation and the minimum amount of dollars per unit to be spent for additional recreational facilities or enlargement of such facilities. If the addition or enlargement of facilities will result in a material increase of a unit owner's maintenance expense or rental expense, if any, the maximum increase and limitations thereon shall be stated.

(5)(a) A statement in conspicuous type describing whether the condominium is created and being sold as fee simple interests or as leasehold interests. If the condominium is



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created or being sold on a leasehold, the location of the lease in the disclosure materials shall be stated.

(b) If timeshare estates are or may be created with respect to any unit in the condominium, a statement in conspicuous type stating that timeshare estates are created and being sold in units in the condominium.

(6) A description of the recreational and other commonly used facilities that will be used only by unit owners of the condominium, including, but not limited to, the following:

(a) Each room and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, approximate deck size and capacity, and whether heated.

(c) Additional facilities, as to the number of each facility, its approximate location, approximate size, and approximate capacity.

(d) A general description of the items of personal property and the approximate number of each item of personal property that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(e) The estimated date when each room or other facility will be available for use by the unit owners.

(f)1. An identification of each room or other facility to be used by unit owners that will not be owned by the unit owners or the association;

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2. A reference to the location in the disclosure materials of the lease or other agreements providing for the use of those facilities; and

3. A description of the terms of the lease or other agreements, including the length of the term; the rent payable, directly or indirectly, by each unit owner, and the total rent payable to the lessor, stated in monthly and annual amounts for the entire term of the lease; and a description of any option to purchase the property leased under any such lease, including the time the option may be exercised, the purchase price or how it is to be determined, the manner of payment, and whether the option may be exercised for a unit owner's share or only as to the entire leased property.

(g) A statement as to whether the developer may provide additional facilities not described above; their general locations and types; improvements or changes that may be made; the approximate dollar amount to be expended; and the maximum additional common expense or cost to the individual unit owners that may be charged during the first annual period of operation of the modified or added facilities.

Descriptions as to locations, areas, capacities, numbers, volumes, or sizes may be stated as approximations or minimums.

(7) A description of the recreational and other facilities that will be used in common with other condominiums, community associations, or planned developments which require the payment of the maintenance and expenses of such facilities, either

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directly or indirectly, by the unit owners. The description shall include, but not be limited to, the following:

(a) Each building and facility committed to be built.

(b) Facilities not committed to be built except under certain conditions, and a statement of those conditions or contingencies.

(c) As to each facility committed to be built, or which will be committed to be built upon the happening of one of the conditions in paragraph (b), a statement of whether it will be owned by the unit owners having the use thereof or by an association or other entity which will be controlled by them, or others, and the location in the exhibits of the lease or other document providing for use of those facilities.

(d) The year in which each facility will be available for use by the unit owners or, in the alternative, the maximum number of unit owners in the project at the time each of all of the facilities is committed to be completed.

(e) A general description of the items of personal property, and the approximate number of each item of personal property, that the developer is committing to furnish for each room or other facility or, in the alternative, a representation as to the minimum amount of expenditure that will be made to purchase the personal property for the facility.

(f) If there are leases, a description thereof, including the length of the term, the rent payable, and a description of any option to purchase.

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408 Descriptions shall include location, areas, capacities, numbers,  
409 volumes, or sizes and may be stated as approximations or  
410 minimums.

411 (8) Recreation lease or associated club membership:

412 (a) If any recreational facilities or other facilities  
413 offered by the developer and available to, or to be used by,  
414 unit owners are to be leased or have club membership associated,  
415 the following statement in conspicuous type shall be included:  
416 THERE IS A RECREATIONAL FACILITIES LEASE ASSOCIATED WITH THIS  
417 CONDOMINIUM; or, THERE IS A CLUB MEMBERSHIP ASSOCIATED WITH THIS  
418 CONDOMINIUM. There shall be a reference to the location in the  
419 disclosure materials where the recreation lease or club  
420 membership is described in detail.

421 (b) If it is mandatory that unit owners pay a fee, rent,  
422 dues, or other charges under a recreational facilities lease or  
423 club membership for the use of facilities, there shall be in  
424 conspicuous type the applicable statement:

425 1. MEMBERSHIP IN THE RECREATIONAL FACILITIES CLUB IS  
426 MANDATORY FOR UNIT OWNERS; or

427 2. UNIT OWNERS ARE REQUIRED, AS A CONDITION OF OWNERSHIP,  
428 TO BE LESSEES UNDER THE RECREATIONAL FACILITIES LEASE; or

429 3. UNIT OWNERS ARE REQUIRED TO PAY THEIR SHARE OF THE  
430 COSTS AND EXPENSES OF MAINTENANCE, MANAGEMENT, UPKEEP,  
431 REPLACEMENT, RENT, AND FEES UNDER THE RECREATIONAL FACILITIES  
432 LEASE (OR THE OTHER INSTRUMENTS PROVIDING THE FACILITIES); or

433 4. A similar statement of the nature of the organization  
434 or the manner in which the use rights are created, and that unit  
435 owners are required to pay.

436  
437 Immediately following the applicable statement, the location in  
438 the disclosure materials where the development is described in  
439 detail shall be stated.

440 (c) If the developer, or any other person other than the  
441 unit owners and other persons having use rights in the  
442 facilities, reserves, or is entitled to receive, any rent, fee,  
443 or other payment for the use of the facilities, then there shall  
444 be the following statement in conspicuous type: THE UNIT OWNERS  
445 OR THE ASSOCIATION(S) MUST PAY RENT OR LAND USE FEES FOR  
446 RECREATIONAL OR OTHER COMMONLY USED FACILITIES. Immediately  
447 following this statement, the location in the disclosure  
448 materials where the rent or land use fees are described in  
449 detail shall be stated.

450 (d) If, in any recreation format, whether leasehold, club,  
451 or other, any person other than the association has the right to  
452 a lien on the units to secure the payment of assessments, rent,  
453 or other exactions, there shall appear a statement in  
454 conspicuous type in substantially the following form:

455 1. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
456 SECURE THE PAYMENT OF RENT AND OTHER EXACTIONS UNDER THE  
457 RECREATION LEASE. THE UNIT OWNER'S FAILURE TO MAKE THESE  
458 PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN; or

459 2. THERE IS A LIEN OR LIEN RIGHT AGAINST EACH UNIT TO  
460 SECURE THE PAYMENT OF ASSESSMENTS OR OTHER EXACTIONS COMING DUE  
461 FOR THE USE, MAINTENANCE, UPKEEP, OR REPAIR OF THE RECREATIONAL  
462 OR COMMONLY USED FACILITIES. THE UNIT OWNER'S FAILURE TO MAKE  
463 THESE PAYMENTS MAY RESULT IN FORECLOSURE OF THE LIEN.

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464  
465 Immediately following the applicable statement, the location in  
466 the disclosure materials where the lien or lien right is  
467 described in detail shall be stated.

468 (9) If the developer or any other person has the right to  
469 increase or add to the recreational facilities at any time after  
470 the establishment of the condominium whose unit owners have use  
471 rights therein, without the consent of the unit owners or  
472 associations being required, there shall appear a statement in  
473 conspicuous type in substantially the following form:

474 RECREATIONAL FACILITIES MAY BE EXPANDED OR ADDED WITHOUT CONSENT  
475 OF UNIT OWNERS OR THE ASSOCIATION(S). Immediately following this  
476 statement, the location in the disclosure materials where such  
477 reserved rights are described shall be stated.

478 (10) A statement of whether the developer's plan includes  
479 a program of leasing units rather than selling them, or leasing  
480 units and selling them subject to such leases. If so, there  
481 shall be a description of the plan, including the number and  
482 identification of the units and the provisions and term of the  
483 proposed leases, and a statement in boldfaced type that: THE  
484 UNITS MAY BE TRANSFERRED SUBJECT TO A LEASE.

485 (11) The arrangements for management of the association  
486 and maintenance and operation of the condominium property and of  
487 other property that will serve the unit owners of the  
488 condominium property, and a description of the management  
489 contract and all other contracts for these purposes having a  
490 term in excess of 1 year, including the following:

491 (a) The names of contracting parties.

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492 (b) The term of the contract.  
493 (c) The nature of the services included.  
494 (d) The compensation, stated on a monthly and annual  
495 basis, and provisions for increases in the compensation.  
496 (e) A reference to the volumes and pages of the  
497 condominium documents and of the exhibits containing copies of  
498 such contracts.  
499  
500 Copies of all described contracts shall be attached as exhibits.  
501 If there is a contract for the management of the condominium  
502 property, then a statement in conspicuous type in substantially  
503 the following form shall appear, identifying the proposed or  
504 existing contract manager: THERE IS (IS TO BE) A CONTRACT FOR  
505 THE MANAGEMENT OF THE CONDOMINIUM PROPERTY WITH (NAME OF THE  
506 CONTRACT MANAGER). Immediately following this statement, the  
507 location in the disclosure materials of the contract for  
508 management of the condominium property shall be stated.  
509 (12) If the developer or any other person or persons other  
510 than the unit owners has the right to retain control of the  
511 board of administration of the association for a period of time  
512 which can exceed 1 year after the closing of the sale of a  
513 majority of the units in that condominium to persons other than  
514 successors or alternate developers, then a statement in  
515 conspicuous type in substantially the following form shall be  
516 included: THE DEVELOPER (OR OTHER PERSON) HAS THE RIGHT TO  
517 RETAIN CONTROL OF THE ASSOCIATION AFTER A MAJORITY OF THE UNITS  
518 HAVE BEEN SOLD. Immediately following this statement, the

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519 location in the disclosure materials where this right to control  
520 is described in detail shall be stated.

521 (13) If there are any restrictions upon the sale,  
522 transfer, conveyance, or leasing of a unit, then a statement in  
523 conspicuous type in substantially the following form shall be  
524 included: THE SALE, LEASE, OR TRANSFER OF UNITS IS RESTRICTED OR  
525 CONTROLLED. Immediately following this statement, the location  
526 in the disclosure materials where the restriction, limitation,  
527 or control on the sale, lease, or transfer of units is described  
528 in detail shall be stated.

529 (14) If the condominium is part of a phase project, the  
530 following information shall be stated:

531 (a) A statement in conspicuous type in substantially the  
532 following form: THIS IS A PHASE CONDOMINIUM. ADDITIONAL LAND AND  
533 UNITS MAY BE ADDED TO THIS CONDOMINIUM. Immediately following  
534 this statement, the location in the disclosure materials where  
535 the phasing is described shall be stated.

536 (b) A summary of the provisions of the declaration which  
537 provide for the phasing.

538 (c) A statement as to whether or not residential buildings  
539 and units which are added to the condominium may be  
540 substantially different from the residential buildings and units  
541 originally in the condominium. If the added residential  
542 buildings and units may be substantially different, there shall  
543 be a general description of the extent to which such added  
544 residential buildings and units may differ, and a statement in  
545 conspicuous type in substantially the following form shall be  
546 included: BUILDINGS AND UNITS WHICH ARE ADDED TO THE CONDOMINIUM



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MAY BE SUBSTANTIALLY DIFFERENT FROM THE OTHER BUILDINGS AND UNITS IN THE CONDOMINIUM. Immediately following this statement, the location in the disclosure materials where the extent to which added residential buildings and units may substantially differ is described shall be stated.

(d) A statement of the maximum number of buildings containing units, the maximum and minimum numbers of units in each building, the maximum number of units, and the minimum and maximum square footage of the units that may be contained within each parcel of land which may be added to the condominium.

(15) If a condominium created on or after July 1, 2000, is or may become part of a multicondominium, the following information must be provided:

(a) A statement in conspicuous type in substantially the following form: THIS CONDOMINIUM IS (MAY BE) PART OF A MULTICONDOMINIUM DEVELOPMENT IN WHICH OTHER CONDOMINIUMS WILL (MAY) BE OPERATED BY THE SAME ASSOCIATION. Immediately following this statement, the location in the prospectus or offering circular and its exhibits where the multicondominium aspects of the offering are described must be stated.

(b) A summary of the provisions in the declaration, articles of incorporation, and bylaws which establish and provide for the operation of the multicondominium, including a statement as to whether unit owners in the condominium will have the right to use recreational or other facilities located or planned to be located in other condominiums operated by the same association, and the manner of sharing the common expenses related to such facilities.

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575           (c) A statement of the minimum and maximum number of  
576 condominiums, and the minimum and maximum number of units in  
577 each of those condominiums, which will or may be operated by the  
578 association, and the latest date by which the exact number will  
579 be finally determined.

580           (d) A statement as to whether any of the condominiums in  
581 the multicondominium may include units intended to be used for  
582 nonresidential purposes and the purpose or purposes permitted  
583 for such use.

584           (e) A general description of the location and approximate  
585 acreage of any land on which any additional condominiums to be  
586 operated by the association may be located.

587           (16) If the condominium is created by conversion of  
588 existing improvements, the following information shall be  
589 stated:

590           (a) The information required by s. 718.616.

591           (b) A caveat that there are no express warranties unless  
592 they are stated in writing by the developer.

593           (17) A summary of the restrictions, if any, to be imposed  
594 on units concerning the use of any of the condominium property,  
595 including statements as to whether there are restrictions upon  
596 children and pets, and reference to the volumes and pages of the  
597 condominium documents where such restrictions are found, or if  
598 such restrictions are contained elsewhere, then a copy of the  
599 documents containing the restrictions shall be attached as an  
600 exhibit.

601           (18) If there is any land that is offered by the developer  
602 for use by the unit owners and that is neither owned by them nor

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603 | leased to them, the association, or any entity controlled by  
604 | unit owners and other persons having the use rights to such  
605 | land, a statement shall be made as to how such land will serve  
606 | the condominium. If any part of such land will serve the  
607 | condominium, the statement shall describe the land and the  
608 | nature and term of service, and the declaration or other  
609 | instrument creating such servitude shall be included as an  
610 | exhibit.

611 |       (19) The manner in which utility and other services,  
612 | including, but not limited to, sewage and waste disposal, water  
613 | supply, and storm drainage, will be provided and the person or  
614 | entity furnishing them.

615 |       (20) An explanation of the manner in which the  
616 | apportionment of common expenses and ownership of the common  
617 | elements has been determined.

618 |       (21) An estimated operating budget for the condominium and  
619 | the association, and a schedule of the unit owner's expenses  
620 | shall be attached as an exhibit and shall contain the following  
621 | information:

622 |       (a) The estimated monthly and annual expenses of the  
623 | condominium and the association that are collected from unit  
624 | owners by assessments.

625 |       (b) The estimated monthly and annual expenses of each unit  
626 | owner for a unit, other than common expenses paid by all unit  
627 | owners, payable by the unit owner to persons or entities other  
628 | than the association, as well as to the association, including  
629 | fees assessed pursuant to s. 718.113(1) for maintenance of  
630 | limited common elements where such costs are shared only by

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those entitled to use the limited common element, and the total estimated monthly and annual expense. There may be excluded from this estimate expenses which are not provided for or contemplated by the condominium documents, including, but not limited to, the costs of private telephone; maintenance of the interior of condominium units, which is not the obligation of the association; maid or janitorial services privately contracted for by the unit owners; utility bills billed directly to each unit owner for utility services to his or her unit; insurance premiums other than those incurred for policies obtained by the condominium; and similar personal expenses of the unit owner. A unit owner's estimated payments for assessments shall also be stated in the estimated amounts for the times when they will be due.

(c) The estimated items of expenses of the condominium and the association, except as excluded under paragraph (b), including, but not limited to, the following items, which shall be stated either as an association expense collectible by assessments or as unit owners' expenses payable to persons other than the association:

1. Expenses for the association and condominium:
  - a. Administration of the association.
  - b. Management fees.
  - c. Maintenance.
  - d. Rent for recreational and other commonly used facilities.
  - e. Taxes upon association property.
  - f. Taxes upon leased areas.

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659 g. Insurance.  
660 h. Security provisions.  
661 i. Other expenses.  
662 j. Operating capital.  
663 k. Reserves.  
664 l. Fees payable to the division.  
665 2. Expenses for a unit owner:  
666 a. Rent for the unit, if subject to a lease.  
667 b. Rent payable by the unit owner directly to the lessor  
668 or agent under any recreational lease or lease for the use of  
669 commonly used facilities, which use and payment is a mandatory  
670 condition of ownership and is not included in the common expense  
671 or assessments for common maintenance paid by the unit owners to  
672 the association.  
673 (d) The estimated amounts shall be stated for a period of  
674 at least 12 months and may distinguish between the period prior  
675 to the time unit owners other than the developer elect a  
676 majority of the board of administration and the period after  
677 that date.  
678 (22) A schedule of estimated closing expenses to be paid  
679 by a buyer or lessee of a unit and a statement of whether title  
680 opinion or title insurance policy is available to the buyer and,  
681 if so, at whose expense.  
682 (23) The identity of the developer and the chief operating  
683 officer or principal directing the creation and sale of the  
684 condominium and a statement of its and his or her experience in  
685 this field.

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686           (24) Copies of the following, to the extent they are  
687 applicable, shall be included as exhibits:  
688           (a) The declaration of condominium, or the proposed  
689 declaration if the declaration has not been recorded.  
690           (b) The articles of incorporation creating the  
691 association.  
692           (c) The bylaws of the association.  
693           (d) The ground lease or other underlying lease of the  
694 condominium.  
695           (e) The management agreement and all maintenance and other  
696 contracts for management of the association and operation of the  
697 condominium and facilities used by the unit owners having a  
698 service term in excess of 1 year.  
699           (f) The estimated operating budget for the condominium and  
700 the required schedule of unit owners' expenses.  
701           (g) A copy of the floor plan of the unit and the plot plan  
702 showing the location of the residential buildings and the  
703 recreation and other common areas.  
704           (h) The lease of recreational and other facilities that  
705 will be used only by unit owners of the subject condominium.  
706           (i) The lease of facilities used by owners and others.  
707           (j) The form of unit lease, if the offer is of a  
708 leasehold.  
709           (k) A declaration of servitude of properties serving the  
710 condominium but not owned by unit owners or leased to them or  
711 the association.

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712           (1) The statement of condition of the existing building or  
713 buildings, if the offering is of units in an operation being  
714 converted to condominium ownership.

715           (m) The statement of inspection for termite damage and  
716 treatment of the existing improvements, if the condominium is a  
717 conversion.

718           (n) The form of agreement for sale or lease of units.

719           (o) A copy of the agreement for escrow of payments made to  
720 the developer prior to closing.

721           (p) A copy of the documents containing any restrictions on  
722 use of the property required by subsection (17).

723           (25) Any prospectus or offering circular complying, prior  
724 to the effective date of this act, with the provisions of former  
725 ss. 711.69 and 711.802 may continue to be used without amendment  
726 or may be amended to comply with the provisions of this chapter.

727           (26) A brief narrative description of the location and  
728 effect of all existing and intended easements located or to be  
729 located on the condominium property other than those described  
730 in the declaration.

731           (27) If the developer is required by state or local  
732 authorities to obtain acceptance or approval of any dock or  
733 marina facilities intended to serve the condominium, a copy of  
734 any such acceptance or approval acquired by the time of filing  
735 with the division under s. 718.502(1) or a statement that such  
736 acceptance or approval has not been acquired or received.

737           (28) Evidence demonstrating that the developer has an  
738 ownership, leasehold, or contractual interest in the land upon  
739 which the condominium is to be developed.

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740           Section 8. The Department of Business and Professional  
741 Regulation may continue to prosecute any existing legal  
742 proceedings and related administrative cases that are in  
743 existence on the effective date of this act.

744           Section 9. This act shall take effect July 1, 2004.



CITY OF MIAMI BEACH  
Office of the City Manager



Letter to Commission No. 082-2004

To: Mayor David Dermer and Members of the City Commission

Date: April 9, 2004

From: Jorge M. Gonzalez  
City Manager

Subject: **Concurrency**

A handwritten signature in cursive script, appearing to read "Jorge", written over the word "Concurrency".

The City is currently undertaking a review of its Comprehensive Plan through the Evaluation and Appraisal Report (EAR) process. The process is intended to identify major issues of importance to the City. Issues related to transportation congestion, and to development and density will be among the most important concerns facing the City. As we begin this process, special focus will be placed on examining the City's Concurrency policies, in order to address the impacts of future development on the traffic circulation and infrastructure needs of Miami Beach.

The City Commission and the Administration started to examine the concurrency issue in depth beginning over a year ago. The Ad Hoc Concurrency Committee was appointed to look into the City's concurrency system and to make recommendations to the City Commission. The City's Planning Board has also begun to make a preliminary view of the concurrency system. Since then, several steps have been taken by the Commission and the Administration to address the most immediate concerns identified.

- An exemption for small businesses which generate less than 100 vehicle trips per day was enacted by the City Commission.
- The City no longer charges applicants an administrative fee when it is determined that there is no net impact from the proposed project upon the City's roadway network.
- The Concurrency Management review function has been moved out of the Public Works Department and into the Planning Department, in order to streamline the review function and make the application process more convenient.

The Ad-Hoc Concurrency Committee, with the assistance of City staff, has studied the concurrency system in depth and has come to a conclusion regarding possible steps the City should take. The Committee has voted to recommend the following four proposals to the City Commission:

Agenda Item

R9J

Date

4-14-04

1. Support a Regional Traffic Study involving the examination of traffic flows throughout the barrier island region, including adjacent municipalities such as Surfside, Bal Harbor, Sunny Isles Beach, and perhaps even Hallandale and Hollywood in Broward County. This study would establish the traffic flows of commuters using Miami Beach as a cut-through to downtown Miami from further north. The study could make recommendations that may help divert traffic to I-95 through other corridors, as well as focus on development trends in other municipalities which may have negative effects on the regional roadway network.
2. Support a City-wide Transportation Master Plan which would examine traffic flows within Miami Beach, paying special attention to the serious "choke-points" which are causing the most trouble for traffic circulation. Such a master plan would go beyond the Municipal Mobility Plan (MMP) to focus more on improving traffic movement or traffic flow, where possible, and specifically addressing possible improvements to the identified "choke-points".
3. Explore the concept of a Major Development Project Review Process as an alternative to the current system of traffic concurrency. Such a system is used by other municipalities, for example in Miami, and would seek to ensure that developments over a certain threshold are assessed an appropriate fee that would defray the impacts such projects have on the City's infrastructure. Integrate the Transportation Master Plan and the Major Development Review concept into the City's Comprehensive Plan during the upcoming Evaluation and Appraisal Report (EAR) process.
4. Evaluate the current practice of granting credits for the proximity of transit facilities to proposed developments when calculating concurrency impact fees. While state law specifies that credits are to be granted for bus routes and circulator transit routes, the state mandated credits granted appear to be out of proportion to the actual number of transit riders associated with large development projects. Explore how a major development project review process (#3 above) could assess impact fees on projects exceeding certain thresholds, without applying credit for transit facilities in such a blanket manner.

The Planning Board has also held discussions regarding the concurrency system and has recommended that the City Commission urgently address the issues as soon as possible.

The next two months, during the City's EAR process, will be a particularly good time to discuss these issues in a variety of forums. The City has scheduled several citizen meetings, and meetings will be held with the Planning Board and City Commission, as well as scoping meetings with the staff of several State and local agencies such as the South Florida Regional Planning Council, the Florida Department of Community Affairs, Miami-Dade County and adjacent local municipalities.

We expect to be able to make progress on addressing the major issues of concern to the City, and to especially focus on solutions that will address the long-term planning concerns regarding transportation congestion and future development.

If you have any questions relative to this matter, or require additional information, please contact me.

  
JMG:CMC:JGG:RGL

c: Christina Cuervo, Assistant City Manager  
Bob Parcher, City Clerk  
Murry Dubbin, City Attorney  
Gary Held, Assistant City Attorney  
Jorge G. Gomez, Planning Director  
Richard Lorber, Planning and Zoning Manager  
Mercedes Lamazares, Principal Planner  
Stephen Foren, Senior Planner  
Henry Johnson, Planning Department

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